



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
QUEZON CITY

Sixth Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CRIM. CASE NO. 27478

For: Violation of Section 3(e) of
Republic Act No. 3019, as amended

- versus -

ALTAGRACIA R. VILLAFLORES,
PANFILO O. GO,
LAMBERTO RAINIER L. FRANCO,
MANUEL M. GABISAN,
EPIFANIA Q. NERVES,
LILIA M. SABANDO,
EDWIN F. FALLER, and
ROGELIO V. YAN,
ALL OF THE MUNICIPALITY OF
HILONGOS, PROVINCE OF LEYTE
Accused.

P R E S E N T :

FERNANDEZ, SJ, J., *Chairperson*
MIRANDA, J. and
VIVERO, J.

Promulgated:

April 20, 2023

X-----X

RESOLUTION

VIVERO, J.:

For resolution are the: (1) *Motion for Reconsideration (Decision Promulgated on 24 January 2023)* dated 8 February 2023 filed by accused Edwin Faller; and (2) *Comment / Opposition (Re: Motion for Reconsideration dated 07 February 2023 Filed by Accused Edwin Faller)* dated 17 March 2023 filed by the prosecution.

In his Motion, accused Faller prays that this Court reconsider its Decision promulgated on 24 January 2023 (Assailed Decision) and in lieu thereof, to render a new one acquitting him of the crime charged, considering that the third element that constitutes violation of Section 3(e) of R.A. 3019, as amended, is absent in this case.

[Handwritten signatures]

In the Assailed Decision, the Court found accused Faller and his co-accused, except for accused Villafior, guilty beyond reasonable doubt. The dispositive portion of the Assailed Decision reads:

"WHEREFORE, in light of the foregoing, judgment is hereby rendered finding:

Accused ALTAGRACIA R. VILLAFIOR NOT GUILTY as the evidence of the prosecution failed to sufficiently establish all the elements of the crime charged and for failure of the prosecution to overcome the presumption of innocence in favor of the aforementioned accused.

Accordingly, the Hold Departure Order issued by the Court against accused VILLAFIOR is hereby LIFTED and SET ASIDE, and the bail bond she posted is RELEASED, subject to the usual accounting and auditing procedures.

Accused PANFILO O. GO, LAMBERTO RAINIER L. FLANCO, MANUEL M. GABISAN, EPIFANIA Q. NERVES, LILIA M. SABANDO, EDWIN F. FALLER, and ROGELIO V. YAN GUILTY beyond reasonable doubt for violation of Section 3(e) of Republic Act No. 3019 and are each sentenced to suffer the indeterminate penalty of imprisonment of SIX (6) YEARS AND ONE (1) MONTH, as minimum, to TEN (10) YEARS, as maximum, with PERPETUAL DISQUALIFICATION to hold public office.

Accordingly, accused GO, FLANCO, GABISAN, NERVES, SABANDO, FALLER, and YAN shall lose all retirement or gratuity benefits under any law as mentioned in Section 13 of R.A. No. 3019.

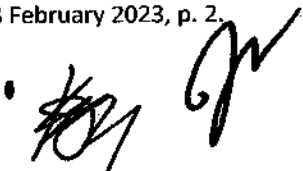
SO ORDERED."

Accused Faller insists that the element of undue injury or damage was not proven by sufficient and competent evidence because of the following reasons:

1. The civil aspect of the case between private complainant and the accused was settled. Private complainant and the accused settled the matter which led the parties to enter into a compromise agreement, and the private complainant even executed an Affidavit of Desistance; and
2. There is no evidence of damage sustained or suffered by the private complainant as the latter did not even testify in court, and the actual damages sustained is not supported by any evidence offered by the prosecution and admitted by the Honorable Court.¹

He insists that private complainant Trinidad Cabardo (Ms. Cabardo) executed an Affidavit of Desistance, and entered into a Compromise Agreement with him and the other accused because the supposed injuries and damages she sustained

¹ Motion for Reconsideration dated 8 February 2023, p. 2.



have already been compensated and satisfied. Moreover, accused-movant claims that Ms. Cabardo did not testify before this Court because the damages and injuries were no longer present.²

The prosecution, on the other hand, maintains that it was able to prove by sufficient evidence the presence of the third element of Section 3(e), R. A. 3019. In its Comment/Opposition, the prosecution submits that:

1. Settlement of the civil aspect is not among the grounds for extinction of criminal liability; and
2. The prosecution presented sufficient evidence to prove damage or undue injury to private complainant.³

The prosecution claims that the accused's criminal liability that already attached as a result of their refusal to recognize the appointment of Ms. Cabardo remains and will not be obliterated by the restitution or payment of the withheld salary. This is because restitution of Php 600,000 merely pertains to the civil aspect of the criminal case, the payment of which cannot result in the extinction of accused's criminal liability. In addition, the basis of the indictment of accused was their unlawful refusal to recognize the appointment of private complainant.⁴

THE COURT'S RULING

The Court finds the subject Motion unmeritorious.

At the outset, it is apparent that the issues raised in the *Motion for Reconsideration* filed by accused Faller are mere reiteration of the issues raised in his previous pleadings. These issues have already been considered, weighed and resolved by the Court in its Decision dated 24 January 2023.

Accused Faller did not present any new matter or compelling reason in this Motion which would warrant another evaluation of the instant case by the Court. The arguments raised by accused Faller were a rehash of their arguments raised in their *Motion to Dismiss* dated 14 March 2008.⁵

As a matter of fact, this Court has ruled that the decision rendered in Civil Case No. 357 does not constitute a ground to dismiss the instant criminal case as the same was decided based on a compromise agreement. Notably, the Regional Trial Court in Hilongos, Leyte, Branch 18, did not make any findings as to the validity or invalidity of the appointment of private complainant. Said decision therefore has not obliterated the basis of the present indictment, which is the alleged refusal of the accused to recognize the appointment of the private complainant as a member of the *Sangguniang Bayan*.⁶

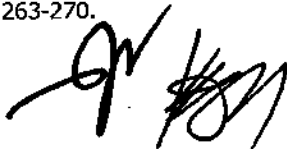
² Motion for Reconsideration dated 8 February 2023, p. 2.

³ Comment / Opposition dated 17 March 2023, p. 2.

⁴ Comment / Opposition dated 17 March 2023, p. 4.

⁵ *Rollo*, Volume 3, pp. 137-138.

⁶ *Rollo*, Volume 3, pp. 263-270.



While it has been recognized that a motion for reconsideration tends to harp on the same issues that were already considered in the decision sought to be reconsidered,⁷ it is likewise a well-entrenched rule that a motion for reconsideration should be denied if it fails to "raise matters substantially plausible or compellingly persuasive to warrant the desired course of action."⁸ Thus, in the instant case, it is imperative for accused Faller to raise substantial legitimate ground or reason to justify the reconsideration sought. Evidently, he failed on this duty when he did not raise any substantial ground that will convince the Court to embark on another evaluation and analysis of the issues of this case.

In another case,⁹ the Supreme Court denied a Motion for Reconsideration which did not raise new and substantial arguments, *viz.*

"[T]he motion contains merely a reiteration or rehash of arguments already submitted to the Court and found to be without merit. Petitioner fails to raise any new and substantial arguments, and no cogent reason exists to warrant a reconsideration of the Court's Resolution. It would be a useless ritual for the Court to reiterate itself.

As aptly explained in the Assailed Decision, affidavits of desistance are not reliable and should be looked upon with disfavor. In *People v. Lamsen*,¹⁰ the Supreme Court ruled that the "unreliable character of the affidavit of recantation executed by a complaining witness is also shown by the incredulity of the fact that after going through the burdensome process of reporting to and/or having the accused arrested by the law enforcers, executing a criminal complaint-affidavit against the accused, attending trial and testifying against the accused, the said complaining witness would later on declare that all the foregoing is actually a farce and the truth is now what he says it to be in his affidavit of recantation."

In addition, the Supreme Court had firmly recognized the rule that criminal liability cannot be the subject of a compromise. For a criminal case is committed against the People, and the offended party may not waive or extinguish the criminal liability that the law imposes for its commission. And that explains why a compromise is not one of the grounds prescribed by the Revised Penal Code for the extinction of criminal liability. Even a complaint for misconduct, malfeasance or misfeasance against a public officer or employee cannot just be withdrawn at any time by the complainant. This is because there is a need to maintain the faith and confidence of the people in the government and its agencies and instrumentalities.¹¹

Verily, accused Faller failed to show any compelling reason why this Court should re-evaluate his arguments in this Motion and overturn its earlier pronouncement.



⁷ *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group Of Companies, Inc.*, G.R. No. 159938, 22 January 2007.

⁸ *Roque, et al. v. COMELEC, et al.*, G.R. No. 188456, 10 February 2010.

⁹ *Mendoza-Ong v. Sandiganbayan*, G.R. Nos. 146368-69, 18 October 2004.

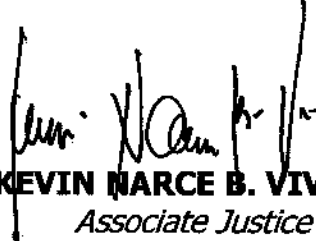
¹⁰ G.R. No. 198338, 13 November 2013.

¹¹ *Trinidad v. Office of the Ombudsman*, G.R. No. 166038, 4 December 2017.



WHEREFORE, the *Motion for Reconsideration (Decision Promulgated on 24 January 2023)* dated 8 February 2023 filed by accused Edwin Faller is hereby **DENIED** for lack of merit.

SO ORDERED.


KEVIN NARCE B. VIVERO
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KARL B. MIRANDA
Associate Justice